



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.230 of 2023

V.Dhanaraj

..Appellant

.vs.

1.K.P.Natarajan

2.The Branch Manager,
New India Assurance Co. Ltd.,
No.2, B.R.Complex, Woods Road,
Anna Salai, Chennai – 2.

3.V.Balaji Baskar

4.The Branch Manager,
United India Insurance Co., Ltd.,
198, Gandhi Road, Arakonam

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to modify the Award dated 19.09.2019 made in MCOP No.557 of 2006 on the file of the Motor Accident Claims Tribunal, Kanchipuram (Principal Sub-Judge, Kanchipuram).

For Appellants : Mr.D.Baskar

For Respondent : Mr.J.Chandran for R2
Mr.M.Krishnamoorthy for R4



JUDGMENT

WEB COPY

The claimant not being satisfied with the compensation fixed by the Tribunal in MCOP No.557 of 2006, dated 19.09.2019 has filed this appeal seeking for enhancement of compensation.

2.The claimant was travelling in bus which belonged to the 3rd respondent and the bus was proceeding from Kancheepuram towards Panapakkam. When it reached Baluchettichathiram bypass road, the offending vehicle which belonged to the 1st respondent was driven in a rash and negligent manner and as a result, the offending vehicle dashed on the rear portion of the bus belonging to the 1st respondent. Some of the occupants died and others sustained injuries. The claimant sustained grievous injuries and his left hand was also amputated due to the injury caused. It is under these circumstances, the appellant filed the claim petition before the Tribunal seeking for compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciating the evidence available on record, came to a conclusion that the negligence was on the part of the driver of the vehicle belonging to the 1st respondent and the accident had taken place only due to his rash and negligent driving. Having come to such a conclusion, the Tribunal proceeded to determine the compensation and the total compensation was arrived in the following manner:



WEB COPY

S.No	Heads	Amount in Rs.
1	Medical Expenses	2443
2	Disability	10,36,800
3	Attendant Charges	4650
4	Loss of income	12000
5	Pain & sufferings	50000
6	Transportation	5000
7	Extra nourishment	5000
	Total	11,15,893

4.The Tribunal directed the compensation to be paid with 7.5% interest by the 2nd respondent Insurance Company. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

5.Heard Mr.D.Baskar, learned counsel appearing on behalf of the appellant, Mr.J.Chandran, learned counsel appearing on behalf of the 2nd respondent and Mr.M.Krishnamoorthy, learned counsel appearing on behalf of the 4th respondent.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.



7.The Tribunal had fixed the income of the appellant at Rs.6,000/- and considering the fact that the appellant was a Painter and his left hand was amputated and the Medical Board has assessed the disability at 80%, proceeded further to compute the compensation by applying the multiplier method.

8.Insofar as the income of Rs.6,000/- that was fixed by the Tribunal, it was purely based on the income that was claimed to be earned by the appellant. Therefore, there is no question of interfering with the same. However, the Tribunal failed to add the future prospects to the income. Therefore, this Court is inclined to add 40% towards future prospects. Thus, the total income shall be Rs.8400/- (Rs.6000 + Rs.2400).

9.This Court is also inclined to enhance the compensation under the head of attendant charges from Rs.4650/- to Rs.25,000/-, since the appellant was taking treatment as an inpatient for nearly 31 days.

10.This Court is also inclined to increase the compensation under the head of 'Transportation' from Rs.5000/- to Rs.20,000/- That apart, this Court is also inclined to enhance the compensation under the head of 'Extra Nourishment' from Rs.5000/- to Rs.25,000/-.



WEB COPY

11. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

Compensation awarded under the head	Amount (in Rs.)
Medical Expenses	2,443
Disability	14,51,520
Attendant Charges	25,000
Loss of income	12,000
Pain & sufferings	50,000
Transportation	20,000
Extra nourishment	25,000
Total	15,85,963

13. The compensation awarded by the tribunal at Rs.11,15,893/- is enhanced to Rs.15,85,963/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.15,85,963/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.4,70,070/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay period of 782 days as was ordered by this Court in C.M.P.No.13822 of 2022, dated 20.01.2023. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



WEB COPY



N. ANAND VENKATESH., J

ssr

This Civil Miscellaneous Appeal is disposed of in the above terms. No costs.

05.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal, Kanchipuram
(Principal Sub-Judge, Kanchipuram).

CMA No.230 of 2023